

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF PUBLIC HEARING ON
of ARM 17.8.504, 17.8.505, and)	PROPOSED AMENDMENT AND
17.8.744 and adoption of New)	ADOPTION
Rules I through X pertaining)	
to registration of certain air)	
contaminant sources including)	(AIR QUALITY)
non-metallic mineral)	
processing plants)	

TO: All Concerned Persons

1. On _____, 2004, at _____ .m., a public hearing will be held [in/at address], Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Board will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board no later than 5:00 p.m., _____, 2004, to advise us of the nature of the accommodation that you need. Please contact the Board Secretary at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2544; fax (406) 444-4386; or email "ber@state.mt.us".

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

17.8.504 AIR QUALITY PERMIT APPLICATION AND REGISTRATION FEES (1) through (4) remain the same.
(5) Concurrent with the submittal of a registration form, as specified in [New Rules I through V], the owner or operator shall submit a registration fee of \$500.

AUTH: 75-2-111, 75-2-220, 75-2-234, MCA
IMP: 75-2-211, 75-2-220, 75-2-234, MCA

17.8.505 AIR QUALITY OPERATION FEES (1) An annual air quality operation fee must be submitted to the department by the owner or operator of:

(a) each facility for which a Montana air quality permit has been issued by the department and remains in effect; ~~and~~

(b) each facility for which an air quality operating permit has been issued by the department and remains in effect~~;~~ and

(c) each facility registered with the department in accordance with [New Rules I through V].

(2) through (9) remain the same.

AUTH: 75-2-111, 75-2-220, 75-2-234, MCA

IMP: 75-2-211, 75-2-220, 75-2-234, MCA

17.8.744 MONTANA AIR QUALITY PERMITS -- GENERAL EXCLUSIONS (1) A Montana air quality permit is not required under ARM 17.8.743 for the following:

(a) through (i) remain the same.

(j) temporary process or emission control equipment, replacing malfunctioning process or emission control equipment, and meeting the requirements of ARM 17.8.110(7) through (9); ~~or~~

(k) routine maintenance, repair, or replacement of equipment and equipment used to perform routine maintenance, repair, or replacement~~;~~ or

(l) any facility that has registered with the department in accordance with this subchapter.

AUTH: 75-2-111, 75-2-204, 75-2-234, MCA

IMP: 75-2-211, 75-2-234, MCA

4. The proposed new rules provide as follows:

NEW RULE I DEFINITIONS For the purposes of this subchapter, the following definitions apply:

(1) "Bucket elevator" means a conveying device for nonmetallic minerals consisting of a head and foot assembly that supports and drives an endless single or double strand chain or belt to which buckets are attached.

(2) "Conveyor" means a device for transporting materials from one piece of equipment or location to another piece of equipment or location within a plant. Conveyors include, but are not limited to, the following:

(a) feeders;

(b) belt conveyors;

(c) bucket elevators; and

(d) pneumatic systems.

(3) "Crusher" means a machine used to crush any nonmetallic mineral and includes, but is not limited to, the following types:

(a) jaw;

(b) gyratory;

- (c) cone;
- (d) roll;
- (e) rod mill;
- (f) hammermill; and
- (g) impactor.

(4) "Dust suppression control" means 50% reduction in particulate emissions applied for the required use of water, water spray bars, and/or chemical dust suppression.

(5) "Grinding mill" means a machine used for wet or dry fine crushing of any nonmetallic mineral. A grinding mill includes the air conveying system, air separator, or air classifier, where such systems are used. Grinding mills include, but are not limited to, the following types:

- (a) hammer;
- (b) roller;
- (c) rod;
- (d) pebble and ball; and
- (e) fluid energy.

(6) "Haul road" means any roadway within the physical boundary of a nonmetallic mineral processing facility that is used as a material transport road or access road, or for a similar purpose.

(7) "Modified non-metallic mineral processing plant" means a plant at which equipment has been added or replaced or construction or changed conditions of operation have occurred after registration.

(8) "Non-metallic mineral processing plant" means any equipment, or combination thereof, including material transfer points, that is used to crush, grind, or screen any non-metallic mineral, as defined in 40 CFR Part 60, Subpart 000.

(9) "PM₁₀" means particulate matter with an aerodynamic diameter of 10 microns or less.

(10) "PM₁₀ non-attainment areas" means certain PM₁₀ non-attainment areas in Montana including, but not limited to, the Libby, Thompson Falls, Kalispell, Whitefish, Columbia Falls, and Butte PM₁₀ non-attainment areas.

(11) "Potential to emit" means the maximum capacity of a facility or emitting unit, within physical and operational design, to emit a pollutant. Any physical or operational limitation on the capacity of the facility or emitting unit to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, is treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions are not considered in determining potential to emit.

(12) "Registered facility" means any registration eligible facility that has registered for operation under the requirements in this subchapter.

(13) "Registration" means identifying equipment and/or processes to the department in accordance with this subchapter.

(14) "Registration eligible facility" means:

(a) a nonmetallic mineral processing plant that operates only within the boundaries of areas for which a current mined land reclamation permit has been issued pursuant to Title 82, chapter 4, part 4, MCA,

(i) having the potential to emit less than:

(A) 50 tons per year (tpy) of particulate matter with an aerodynamic diameter less than 10 microns (PM₁₀) and oxides of sulfur (SO_x);

(B) 100 tpy of any other criteria pollutant; and

(C) 10 tpy of any one hazardous air pollutant (HAP), 25 tpy of a combination of all HAPs, or any lesser quantity as the board may establish by rule; or

(ii) that limits its production to a level that equates to controlled emissions less than or equal to the emission levels in (i), (ii), and (iii).

(15) "Screen" means a device for separating material according to size by passing undersize material through one or more mesh surfaces (screens) in series, and retaining oversize material on the mesh surfaces (screens).

(16) "Stockpile" means any nonmetallic mineral storage pile, reserve supply, or similar sources of material. Non-metallic minerals may be stockpiled by conveyor, truck dumping, or similar means of pile forming.

(17) "Transfer point" means a point in a conveying operation where the nonmetallic mineral is transferred to or from a conveyor.

AUTH: 75-2-111, 75-2-234, MCA

IMP: 75-2-234, MCA

NEW RULE II INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board hereby adopts and incorporates by reference:

(a) 40 CFR Part 60, Subpart 000, specifying standards of performance for nonmetallic mineral processing plants.

(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 East Sixth Avenue, P.O. Box 200901, Helena MT 59620-0901.

(3) Copies of federal materials also may be obtained from:

(a) the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, phone: (703) 487-4650, fax: (703) 321-8547, internet: orders@ntis.fedworld.gov;

(b) the National Center for Environmental Publications and Information, (800) 490-9198;

(c) the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328; and

(d) at the libraries of each of the 10 EPA regional offices.

(4) Copies of the Code of Federal Regulations may be obtained from the US Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328.

AUTH: 75-2-111, 75-2-234, MCA

IMP: 75-2-234, MCA

NEW RULE III APPLICABILITY (1) An owner or operator of a registration eligible facility may register with the department in lieu of submitting an application for, and obtaining, a Montana Air Quality Permit (MAQP). Nothing in this subchapter shall preclude an owner or operator from obtaining and/or maintaining a MAQP in accordance with ARM Title 17, chapter 8, subchapter 7.

AUTH: 75-2-111, 75-2-234, MCA

IMP: 75-2-234, MCA

NEW RULE IV REGISTRATION PROCESS (1) A registration eligible facility is registered upon the department's receipt of the form and information required in (2) and in [New Rule VI] and the appropriate fee required in [New Rule V]. The department shall acknowledge the receipt of the registration within 30 days after receiving the registration.

(2) The owner or operator shall provide the following information to the department using a form provided by the department:

(a) facility name and mailing address;

(b) owner or operator's name, address, and telephone number;

(c) physical location of facility (legal description to the nearest 1/4 section). For portable facilities, the physical location is the intended initial or current location of operation at the time of registration;

(d) contact person and telephone number;

- (e) general nature of business;
- (f) standard industrial classification code (SIC);
- (g) SIC description;
- (h) narrative description of the site and facility. For portable facilities, the intended initial or current location of operation at the time of registration must be described;
- (i) site map. For portable facilities, the intended initial or current location of operation at the time of registration must be shown on the map; and
- (j) the number of the permit issued pursuant to 82-4-432, MCA.

(k) any additional equipment-specific information required by [New Rule VII], as applicable.

(3) The owner or operator shall notify the public of the initial location or any transfer of location that has been made through a legal notice in a newspaper of general circulation in the area where the facility will be located. The notification must be made at least 10 days before submittal of the registration information for the initial location or at least 15 days prior to a change of location. The form of the notice must be as provided by the department. An affidavit of publication must be submitted to the department with the registration form.

(4) The owner or operator of a registered facility must notify the department, using the registration form provided by the department, of any change(s) to the registration information provided within 15 days of the change(s).

(5) An owner or operator of a new or modified registration eligible facility may not commence operations under the provisions of this subchapter until registered with the department.

(6) The owner or operator of any registration eligible facility for which a valid MAQP has been issued may register with the department and request revocation of the MAQP.

AUTH: 75-2-111, 75-2-234, MCA

IMP: 75-2-234, MCA

NEW RULE V REGISTRATION FEE (1) The registration fee as required by ARM 17.8.504 must be submitted to the department with each registration submitted in accordance with this subchapter. No fee is required for notifying the department of changes to registration information pursuant to [New Rule IV(4)] or for transfer of location of registered facilities.

(2) The registration fee must be paid in its entirety at the time the registration form is submitted to the department.

AUTH: 75-2-111, 75-2-234, MCA
IMP: 75-2-234, MCA

NEW RULE VI NON-METALLIC MINERAL PROCESSING PLANTS:
REGISTRATION INFORMATION (1) The owner or operator of a non-metallic mineral processing plant shall provide the following additional equipment-specific information to the department at registration:

- (a) For crushers, grinding mills, and/or screens:
 - (i) manufacturer's name;
 - (ii) unit type;
 - (iii) serial number;
 - (iv) date of manufacture; and
 - (v) maximum rated design capacity (material throughput).
- (b) For electrical generators:
 - (i) manufacturer's name;
 - (ii) maximum rated design capacity;
 - (iii) serial number;
 - (iv) date of manufacture; and
 - (v) the fuel used by the unit.
- (c) For all other associated equipment including, but not limited to, conveyors, material hoppers, and bucket elevators:
 - (i) manufacturer's name;
 - (ii) maximum rated design capacity;
 - (iii) serial number; and
 - (iv) date of manufacture.

(2) The owner or operator of a registered facility shall notify the department, using the registration form provided by the department, of any changes to the information provided under [New Rule IV] and [New Rule VI].

AUTH: 75-2-111, 75-2-234, MCA
IMP: 75-2-234, MCA

NEW RULE VII NON-METALLIC MINERAL PROCESSING PLANTS
OPERATING REQUIREMENTS: FACILITY-WIDE (1) The following requirements apply to registered non-metallic mineral processing plants:

- (a) The owner or operator shall allow the department's representatives access to the facility at all reasonable times for the purpose of making inspections or surveys, collecting samples, obtaining data, auditing any monitoring equipment, observing any monitoring or testing, and otherwise conducting all necessary functions related to this subchapter.

(b) The owner or operator shall comply with the conditions contained in this subchapter while operating at any location in Montana, except within those areas that are subject to a board approved local air quality permitting program.

(c) The owner or operator shall treat all unpaved portions of haul roads, access roads, parking lots, or the general plant area with water and/or chemical dust suppressant, as necessary, to maintain compliance with ARM 17.8.308.

(d) Water and spray bars must be available on site at all times and operated as necessary to maintain compliance with the opacity limitations in this subchapter, as applicable.

(e) If the registered facility is used in conjunction with any other equipment owned or operated by the owner or operator, at the same operating site, production is limited to correspond with an emission level that does not exceed 100 tons of any regulated pollutant during any rolling 12-month time period.

(f) The owner or operator shall comply with all applicable standards and limitations, and reporting, recordkeeping, testing, and notification requirements contained in 40 CFR 60, Subpart 000.

(g) Emissions from any crusher affected by new source performance standards (NSPS), as defined in 40 CFR 60, Subpart 000, may not exhibit an opacity of 15% or greater averaged over six consecutive minutes.

(h) Emissions from any other NSPS affected equipment, such as screens or conveyor transfers, may not exhibit an opacity of 10% or greater averaged over six consecutive minutes.

(i) Emissions from any non-NSPS affected equipment may not exhibit an opacity of 20% or greater averaged over six consecutive minutes.

(j) Within 60 days after achieving maximum production, but no later than 180 days after initial start-up, an environmental protection agency (EPA) Method 9 opacity test and/or other methods and procedures as specified in 40 CFR 60.675 must be performed on all NSPS affected equipment to demonstrate compliance with the emission limitations contained in [New Rule VII(1)(g) and (h)], as applicable. The owner or operator shall notify the department of the initial start-up date of all NSPS affected equipment within 30 days of the actual start-up date.

(i) All compliance source tests shall conform to the requirements of the Montana Source Test Protocol and Procedures Manual.

(ii) The department may require further testing.

(k) The owner or operator shall monitor and record the following information:

(i) annual production information for all emission points, as required by the department in the annual emission inventory request. The request will include, but is not limited to, all equipment and associated emissions registered to operate at the facility. Production information must be gathered on a calendar year basis and submitted to the department by the date required in the emission inventory request. Information must be in the units required by the department.

(ii) The owner or operator shall maintain on-site records showing daily hours of operation and daily production rates and corresponding emission levels for the previous 12 months. The records compiled in accordance with this subchapter must be maintained by the owner or operator for at least five years following the date of the measurement, must be available at the plant site for inspection by the department, and must be submitted to the department upon request.

(2) If a registered non-metallic mineral processing plant is moved to another location, the requirements of this subchapter must be followed. The applicable intent-to-transfer forms are available from the department upon request.

AUTH: 75-2-111, 75-2-234, MCA

IMP: 75-2-234, MCA

NEW RULE VIII NON-METALLIC MINERAL PROCESSING PLANTS
OPERATING REQUIREMENTS: ELECTRICAL GENERATORS (1) The following requirements apply to all electrical generators used to provide electrical power at any registered facility:

(a) Electric generator fuels are limited to the following:

(i) American Society of Testing and Materials (ASTM) Grade 1 or 2 fuel oil;

(ii) gasoline;

(iii) liquefied petroleum gas (LPG); and/or

(iv) natural gas.

(b) The sulfur content of the fuel used may not exceed the limits stated in ARM 17.8.322.

(c) Visible emissions from any generator stack, vent, or other functionally equivalent opening may not exhibit an

opacity of 20% or greater averaged over six consecutive minutes.

(d) Electric generator operating hours must be limited to correspond with an emission level that does not exceed the applicable registration eligible facility emission thresholds specified in this subchapter.

(e) The owner or operator shall monitor and record the following information:

(i) the rated output capacity, in kilowatts (kW) or horsepower (Hp), of each electrical generator;

(ii) the operating hours, documented by month, of each electrical generator. By the 25th day of each month, the owner or operator shall total the hours of operation during the previous 12 months to verify compliance with the limitation in (1)(d). The owner or operator shall submit a written report of the compliance verification with the annual emission inventory;

(iii) if fuel oil is used, documentation that the fuel oil used is ASTM grade.

AUTH: 75-2-111, 75-2-234, MCA

IMP: 75-2-234, MCA

NEW RULE IX ADDITIONAL REQUIREMENTS FOR FACILITIES LOCATING IN OR WITHIN 10 KILOMETERS OF CERTAIN PM₁₀ NONATTAINMENT AREAS (1) The requirements contained in this rule apply to registered facilities while operating at any location in, or within 10 km, of a PM₁₀ nonattainment area.

(2) Water spray bars must be operated on the crushers, screens, and all transfer points whenever the registered facility is operating.

(3) The owner or operator shall treat all unpaved portions of the access roads, parking lots, and general plant area with water and/or chemical dust suppressant as necessary to maintain compliance with the opacity limitation in [New Rule IX(7)].

(4) Total combined production of all equipment and processes at a non-metallic mineral processing plant are limited to correspond with an emission level that does not exceed 547 pounds per day of PM₁₀ emissions.

(5) A non-metallic mineral processing plant may be operated only from April 1 through September 30 of any given year.

(6) The owner or operator may not cause or authorize to be discharged into the atmosphere from any other equipment, such as conveyors and material transfer points, any visible

emissions that exhibit an opacity of 10% or greater averaged over six consecutive minutes.

(7) The owner or operator may not cause or authorize to be discharged into the atmosphere from haul roads, access roads, parking lots, or the general plant property, any fugitive emissions that exhibit an opacity of 10% or greater averaged over six consecutive minutes.

(8) The owner or operator shall provide the department with written notification of completion of the project no later than 10 working days after project completion.

(a) The owner or operator shall provide the department with written notice of relocation of the registered facility no later than 15 working days before the physical transfer of the equipment.

(b) Production information for the sites covered by this rule must be submitted to the department with the annual emission inventory request or within 30 days after completion of the project, whichever is sooner. At a minimum, the information must include:

- (i) tons of material crushed;
- (ii) tons of material screened;
- (iii) tons of bulk material loaded;
- (iv) daily hours of operation;
- (v) amount and type of fuel used for each generator;
- (vi) fugitive dust information, consisting of a listing of all plant vehicles, including the following for each vehicle type:

- (A) vehicle type;
- (B) number of vehicles;
- (C) vehicle weight, loaded;
- (D) vehicle weight, unloaded;
- (E) number of tires on vehicle;
- (F) average trip length;
- (G) number of trips per day per vehicle;
- (H) average vehicle speed;
- (I) area of activity;
- (J) type and amount of each fuel used (gasoline or diesel);

(vii) fugitive dust control for haul roads and general plant area including:

- (A) hours of operation of water trucks; and
- (B) application schedule for chemical dust suppressant, if applicable.

(c) The owner or operator shall document, by day, combined total crushing production. The owner or operator shall calculate the combined total crushing production during the previous 24 hours to verify compliance with the limitation

in [New Rule IX(4)]. A written report of compliance verification and the emissions inventory shall be submitted to the department annually.

(d) The owner or operator shall document, by day, combined total screening production and the number of material transfer points. The owner or operator shall calculate the combined total screening production during the previous 24 hours to verify compliance with the limitation in [New Rule IX(4)]. A written report of compliance verification and the emissions inventory shall be submitted to the department annually.

(e) The owner or operator shall document, by day, combined total crusher/screen production. The owner or operator shall calculate the combined total crusher/screen production during the previous 24 hours to verify compliance with the limitation in [New Rule IX(4)]. A written report of compliance verification and the emissions inventory shall be submitted to the department annually.

(f) The owner or operator shall document, by day, the combined total generator operation. The owner or operator shall calculate the combined total generator operating hours during the previous 24 hours to verify compliance with the limitation in [New Rule IX(4)]. A written report of compliance verification and the emissions inventory shall be submitted to the department annually.

AUTH: 75-2-111, 75-2-234, MCA

IMP: 75-2-234, MCA

NEW RULE X REPORT TO THE BOARD (1) The department shall report biennially to update the board regarding current emission limitations and operating requirements for non-metallic mineral processing plants compared to current requirements for permitted facilities.

AUTH: 75-2-111, 75-2-234, MCA

IMP: 75-2-234, MCA

REASON: The Board is proposing to adopt new rules to implement a registration system for certain facilities that presently require an air quality permit. Currently, the administrative rules adopted under the Clean Air Act of Montana require some sources of air pollution to obtain a permit prior to construction or operation. House Bill 700, passed by the 2003 Montana Legislature and codified as 75-2-234, MCA, allows the Board to adopt a registration system in lieu of permitting.

The proposed new rules would allow some facilities, which now require an air quality permit to operate, to register with the Department in lieu of submitting a permit application and obtaining a permit. Registered facilities would still be required to supply information that is consistent with the type and amount of information currently required in a permit application. Registered facilities would still be required to follow rules of operation that are similar to current permit conditions. These rules of operation would include emission limitations and requirements for testing, monitoring and reporting.

The proposed new rules would apply to non-metallic mineral processing operations. The development of a registration process for homogenous facilities where permit conditions and environmental impact vary little from permit to permit would allow the Department to use air program staff more efficiently, focusing on major source permitting issues and field compliance activities.

The registration process would not include a public comment period or appeal process for each individual facility as is currently provided under the permitting system. However, there is a public comment period on this rulemaking that would establish the registration process as well as on the programmatic environmental assessment applying to the proposed new rules.

New Rules I through V provide facility registration general information including definitions, applicability, facilities eligible for registration, a description of the registration process and information that must be provided, and a cross-reference to ARM 17.8.504 for the registration fee.

New Rules VI through X contain the proposed registration requirements for non-metallic mineral processing plants. The proposed rules include: registration information; facility-wide applicable requirements, including general requirements, operating requirements, emission limitations, and testing, monitoring, and recordkeeping requirements; requirements for electrical generators; and additional requirements for facilities locating in a PM-10 non-attainment area.

The Board is also proposing to amend ARM 17.8.504 and 17.8.505 to include the fees for registered facilities, and to amend ARM 17.8.744 to exclude registered facilities from requiring Montana Air Quality Permits.

5. Concerned persons may submit their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to the

Board Secretary at Board of Environmental Review, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386, or emailed to "ber@state.mt.us", no later than 5:00 p.m., _____, 2004. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

6. _____, attorney for the Board, has been designated to preside over and conduct the hearing.

7. The Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to the Board Secretary at Board of Environmental Review, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to (406) 444-4386, emailed to "ber@state.mt.us," or may be made by completing a request form at any rules hearing held by the Board.

8. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

BOARD OF ENVIRONMENTAL REVIEW

BY:

JOSEPH W. RUSSELL, M.P.H.,
Chairman

Reviewed by:

David Rusoff, Rule Reviewer

Certified to the Secretary of State _____, 2004.